

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:07CR86
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
DEVON ANTHONY NASH,)	
)	
Defendant.)	

The Court has received the Presentence Investigation Report ("PSR") and the government's objections thereto (Filing No. 30).¹ See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The plea agreement provides the parties' stipulation that the Defendant's base offense level shall not be determined by U.S.S.G. § 2K2.1(a)(1, 2, or 3). Through its objections to the PSR, the government argues that the Defendant's base offense level shall be determined by § 2K2.1(a)(2). The objection is denied.

IT IS ORDERED:

1. The government's Objections to the Presentence Investigation Report (Filing No. 30) are denied;
2. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;

¹The objections were not raised initially to the probation officer as required by ¶ 4 of the Order on Sentencing Schedule. (Filing No. 19.)

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 26th day of July, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge